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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re D.C., et al., Persons Coming Under
the Juvenile Court Law.

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

Y.L.,

Defendant and Appellant.

E065710

(Super.Ct.Nos. J263026, J263027,
J263028, J263029)

OPINION

APPEAL from the Superior Court of San Bernardino County. Christopher B.
Marshall, Judge. Affirmed.

Rich Pfeiffer, under appointment by the Court of Appeal, for Defendant and
Appellant.

William D. Caldwell, under appointment by the Court of Appeal, for minors.

Jean-Rene Basle, County Counsel, and Jamila Bayati, Deputy County Counsel, for Plaintiff and Respondent.

Y.L. is the mother (Mother) of the four children who are the subjects of this appeal. On the date of the disposition orders that Mother challenges, the children were ages 5 (D.C.), 14 (A.R.), 15 (B.R.), and 17 (M.R.). D.C. and B.R. are females. Mother waived her rights regarding jurisdiction, but argues the juvenile court erred when it ordered the children removed from her care. We conclude that, despite the children's wishes and the conflicting recommendations from CFS and minors' counsel, the removal order is well supported by substantial evidence of Mother's longstanding and repeated failure to protect her children.

FACTS AND PROCEDURE

Detention – October to November 2015

On October 28, 2015, respondent Children and Family Services (CFS) received a referral alleging emotional abuse and general neglect of all four children by Mother, and the same regarding just D.C. by D.C.'s father (D.C.'s Father). Mother had sought assistance with shelter because of domestic violence. The reporting party stated that Mother disclosed that she and D.C.'s Father had engaged in domestic violence over the past four years, that Mother had not notified law enforcement, and that the children were at times present during the incidents. Mother had also initially disclosed that the domestic violence was both verbal and physical, but later told the reporting party that D.C.'s Father was verbally abusive only.

On November 12, 2015, two social workers responded to the referral and interviewed Mother at the home of D.C.'s Father's mother, where the family was living. Mother stated the abuse from D.C.'s Father was mostly verbal and that she was ready to leave with her children. She stated D.C.'s Father was unhappy with his job and that they also argued about serious financial and family issues, including that they were living with his mother. During this CFS interview with Mother, D.C.'s Father came home from work. At that time, he, his mother and Mother all agreed with the social workers that D.C.'s Father would leave the home. In the detention report dated November 20, 2015, CFS recommended Mother receive family maintenance services and that the children remain in her custody. CFS recommended D.C. be removed from D.C.'s Father, and that he receive reunification services for her.

At the detention hearing held on November 20, 2015, the court detained the children with Mother. The court ordered D.C.'s Father to remain out of the home, but granted him weekly supervised visits with D.C. The court ordered the visits to be supervised by CFS or a delegate, not by Mother. CFS and the court discussed that CFS would obtain the records of a 2010-2011 child welfare case from Los Angeles County.

The Family Structure

Mother had a total of eight children with three different fathers. Mother's ability and willingness to protect her children from each of these fathers is central to this case. As described below, each of the three fathers of Mother's children sexually abused Jy.C. on a regular basis while she lived in that father's home. In addition, the C. Father

physically abused his own children. The C. Father exposed A.R., B.R. and M.R. to violence when they visited him, although he did not abuse them directly. Finally, A.R., B.R. and M.R. each eventually reported that an older sibling sexually abused or inappropriately touched them, with M.R. being both victim and abuser.

Mother was with the father of her four oldest children (the C. Father) from when she herself was in foster care until 1995 – their children are, youngest to oldest, J.J.C., Jy.C., J.C. and Jo.C. Jy.C. is a female. All are now adults. Mother stated she had a domestic violence relationship with the C. Father and finally left him in 1995. From April 2008 to September 2009, Mother placed these four children in the C. Father's care while she dealt with the loss of her home and with drug and alcohol addiction, with disastrous results.

Mother and her previous husband (the R. Father) had three children together, A.R., B.R. and M.R. They were married from 1999 until they obtained a divorce in 2013. However, the R. Father was arrested in October of 2007 and deported to Mexico in 2008. He was not offered services for A.R., B.R. and M.R. in the current case.

Mother and D.C.'s Father became friends in late 2007 and began a romantic relationship in early 2008 – they had one child together, D.C. They remained together until at least the beginning of the current dependency, although they lived apart for a time as a result of the Los Angeles child welfare case in 2010-2011.

The Family's Prior Child Welfare History

The details of the family's long child welfare history came to light gradually as this current case progressed, and had a large impact on the disposition. For clarity and some measure of brevity, the following summarizes this history chronologically as it happened, rather than as it was revealed in the record.

The Child Abuse Hotline in Los Angeles County received eight referrals regarding this family from 1998 to 2009. These referrals included the following reports. In 1998 a paternal cousin had abused 3-year-old Jy.C. at her paternal grandmother's home. In 1999 Mother neglected the children. In 2001 the C. Father fled to Mother's home after he raped and impregnated his own 15- and 18-year-old stepdaughters and faced an arrest warrant for raping a non-related 13-year-old female.¹ In 2007 Mother found the R. Father in bed with Jy.C., failed to report it and blamed Jy.C. instead of the R. Father. Mother moved Jy.C.'s bed and told Jy.C. to wear different clothing. The reporting party, a teacher at Jy.C.'s middle school, said Jy.C. told her that "other things have happened to her with her stepfather but [she] did not want to talk about it." The teacher reported that Jy.C. seemed "disturbed by the incident and very affected by her Mother . . . [I]t seems as if Mother was blaming the child from the incident with stepfather." This referral was closed as unfounded because Jy.C. told investigators that she had lied and that the R. Father had never been inappropriate with her. In 2008, the principal from one of the

¹ This source describes the rape victim as a 13-year-old female. Two other sources in the record state that the C. Father was convicted of sexually abusing a child under the age of three.

children's school reported once that the R. Father was threatening to kill Mother when he got out of jail, and again that A.R., B.R. and M.R. were being neglected because Mother was on drugs and alcohol.

In 2009 came the only substantiated referral prior to the 2010-2011 dependency, that the C. Father had been forcibly raping Jy.C. for the previous year-and-a-half that she and her siblings lived with him, and had made her pregnant. The referral also stated that Mother neglected her children by allowing them contact with the C. Father despite knowing his history of abusing children. Jy.C. reported that she was afraid of the C. Father, that he would hit and choke her whenever she said "no" to his sexual advances, and that he forced her to get an abortion when she was three months pregnant. Jy.C. also told police that the C. Father's wife once walked in on Jy.C. and the C. Father having sex, and that the C. Father then beat up his wife and threatened her not to report what she saw.

As of 2011, Mother had felony convictions for assault with a firearm, shooting at an unoccupied dwelling and possessing a dangerous weapon. The C. Father had an extensive record of arrests, convictions and parole violations, including assault with a deadly weapon, inflicting injury on a spouse, grand theft, hit and run, drug sales, sex with a minor under age three with great bodily injury, rape, and burglary. The C father was described as a gang member "and is considered to be very dangerous." The R. Father had convictions for providing false information to a police officer, unsafe lane change, two separate felony convictions for evading a peace officer, driving with a suspended license, and numerous arrests for Vehicle Code violations and bench warrants.

While investigating the current dependency case, CFS confirmed that a dependency case was open in Los Angeles County from February 2010 to November 2011 regarding the five children A.R., B.R., M.R., J.J.C., and Jy.C. The Los Angeles court sustained allegations that D.C.'s Father sexually abused Jy.C. and that Mother neglected the children. The Los Angeles court also sustained allegations that the C. Father previously: sexually abused Jy.C., physically abused Jy.C. and J.J.C., and engaged in physical domestic violence with their stepmother in their presence. Police reports regarding the abuse by D.C.'s Father indicate that both Mother and Jy.C. told multiple interviewers at the time (February 2010) that Jy.C. and D.C.'s Father were having a sexual relationship and that Mother knew about it. The police were called to the home because Mother was hitting Jy.C. after walking in on Jy.C. and D.C.'s Father having sex. Jy.C. repeatedly stated that her Mother knew about the relationship, and was sometimes okay with it but sometimes yelled at Jy.C. over it. Mother stated she knew the two were having sex, but that day was the first time she had witnessed it. Mother also stated that seven-year-old A.R. told her he had seen the two touching each other sexually.

The children were removed and Mother received family reunification services, including parenting, therapy, and sexual abuse awareness. After D.C.'s Father returned home from spending three days in jail, he and Mother remained in their relationship, continued to live together and conceived D.C. D.C.'s Father moved out of the home shortly before the children were returned to Mother, likely during the summer of 2010. D.C. was born in January 2011. The dependency ended in November 2011, except that

Jy.C.'s dependency ended when she turned 18 a month earlier. D.C.'s Father moved back in with the family a few months after the dependency ended, despite having caused the dependency by having sex with Jy.C. and despite instructions that that he not be allowed contact with any of Mother's children, other than supervised visits with D.C.

Lastly, in 2014, when the family lived in Los Angeles County, 19-year-old J.J.C. shot and killed his girlfriend at the family home. This incident happened while the family was home and M.R. was in the room. J.J.C. and his girlfriend were in bed and the girlfriend was teasing J.J.C. about his manhood. J.J.C. took the gun with which the girlfriend was playing Russian roulette and shot her. J.J.C. had been incarcerated since that time and this still severely affected the family.

Jurisdiction/Disposition Reports - December 2015

In the jurisdiction and disposition report filed December 9, 2015, the social worker described telephone interviews with Mother and with D.C.'s Father on December 4, 2015. Mother stated that she and D.C.'s Father had been together for eight years, with verbal altercations for the past four years. She stated that she and D.C.'s Father yelled at each other and that he cursed at her. They argued about money, the sexual allegations against him regarding Jy.C., and the incident in 2014 in which J.J.C. shot and killed his girlfriend. Mother said she contacted her case worker in October 2015 about getting into a shelter when she could not take the arguing any more. Mother stated she never mentioned physical abuse to the case worker and that it must have been a misunderstanding. Mother stated Jy.C. made up the sexual abuse allegations in 2010

because Jy.C. was mad at Mother for choosing D.C.'s Father over her, and at D.C.'s Father for giving Mother a "universal precautions disease." Mother stated that Jy.C. later admitted to lying about D.C.'s Father and apologized to them both. Mother reported she was diagnosed bipolar and with depression in 2009, but was not currently on medication.

During the December 4, 2015 interview, D.C.'s Father admitted that he and Mother argued a lot, mostly after three of Mother's older children, J.C., J.J.C. and Jy.C., moved back into their home five or six years prior, after living with the C. Father. He denied having abused Jy.C., and stated she made up the allegations. After the allegations, he spent three days in jail but was not prosecuted. D.C.'s Father said that when the case was closed, he was told that he could continue visiting with D.C., but not with the children A.R., B.R. and M.R. D.C.'s Father insisted the Los Angeles social workers never told him he could not move back into the family home after the case was closed. He stated that sometimes he argues with Mother in front of the children, but often they would tell the children to go outside, or he and Mother would go outside. He denied any physical fights.

Each parent referred to the other as their spouse, and stated that they were engaged.

On December 7, 2015, the social worker interviewed D.C., A.R. and B.R. at their schools, and M.R. privately at home. D.C. was four years old and could not answer many of the questions, but she did say that Mother yells at D.C.'s Father. A.R. stated that Mother and D.C.'s Father argue about twice per month and that he and his siblings then

go outside. He denied seeing them hit each other or hearing them curse. A.R. said that D.C.'s Father had moved out of their home because his sister, Jy.C. had "made up a lie" about D.C.'s Father sexually abusing her. He stated he was not afraid of D.C.'s Father and liked having him live with the family. B.R.'s answers to the social worker's questions were consistent with A.R.'s., except she said the arguments happened about once per week. M.R.'s answers were also consistent with those of his siblings, and he added that he saw D.C.'s Father as a "father figure" who taught him a lot of things and made him the person he is today.

In a telephone interview also on December 7, 2015, 22-year-old Jy.C. said that she had made up the sexual abuse allegations against D.C.'s Father in February 2010 because she wanted to "get him taken away" because she believed he had given a disease to Mother. She stated she now has a "good relationship" with him. Jy.C. confirmed that the C. Father had molested her during the year-and-a-half that she and her siblings lived with him before returning to Mother in 2009. Jy.C. reported no concerns about her four half-siblings with D.C.'s Father living in the family home.

The social worker reported that the police departments she contacted regarding the family's current and most recent residences revealed only a domestic violence call to the prior residence in August 2015, with a report of loud arguing but no arrests or police report, and a November 2015 visit to the current home for a reported hit and run.

On December 15, 2015, minors' counsel asked to set the disposition hearing as contested on the issue of family maintenance for Mother.

On January 11, 2016, CFS filed an “Additional Information to the Court,” to which it attached two reports from the Los Angeles County case – a progress report dated May 13, 2010, and a status review report dated January 20, 2011, containing much of the information described above.

Children’s Forensic Interviews – January 2016

On January 28, 2016, DFS filed a second “Additional Information to the Court” memo, summarizing and attaching the children’s forensic interview reports from the Children’s Assessment Center (CAC). Five-year-old D.C. described her parents hitting and kicking each other and said they hit her with a belt on her body.

Fourteen-year-old A.R. said that Mother and D.C.’s Father argue but do not hit each other. He commented that he had not seen D.C.’s Father since the beginning of the case, but that D.C. gets to visit him. In the “Additional Information to the Court” memo, the social worker says that A.R. disclosed that when he was eight years old M.R. had touched his “private part” over his clothing. When he later told Mother about this, she put them in separate bedrooms and enrolled them in therapy. The attached report of A.R.’s forensic interview does not contain this information.

Fifteen-year-old B.R. reported that her older half-sibling J.J.C. sodomized her twice in 2010 when they were in foster care together and she was about nine years old. B.R. did not tell anyone until J.J.C. was arrested in 2014, when she felt safe to tell Mother. Mother took B.R. to a counselor, whom B.R. told she did not want to press charges. B.R. also stated that, when her older half-siblings were living with the C.

Father, Mother would sometimes send B.R. over to visit. B.R. described the C. Father as “mean,” but said he would send her out of the room while she believed he was spanking her half-siblings with a belt. B.R. stated she did not want to be taken from Mother. B.R. said that Mother and D.C.’s Father argue about twice a week, but the arguments do not get violent.

Seventeen-year-old M.R. talked about being in the room when J.J.C. shot and killed his girlfriend. J.J.C. was acting “crazy” and seemed like he was on drugs, but Mother and D.C.’s Father did not notice. M.R. said Mother and D.C.’s Father argue often but do not become physical or violent, and that he and the other children are not really bothered by the arguing. M.R. stated the C. Father raped and physically abused his older half-siblings, and said Mother told him the C. Father was so abusive to her that he almost killed her. M.R. said the reason Mother sent his older half-siblings to live with the C. Father was because the R. Father was arrested and deported for having methamphetamine, which caused Mother to lose the family home. M.R. vaguely recalled visiting the C. Father’s home one time and stated he was not abused or mistreated that day. In the “Additional Information to the Court” memo, the social worker says that M.R. disclosed that Jy.C. touched him on his private part when he was under 10 years old. This information is not contained in the attached report of M.R.’s forensic interview.

Jurisdiction/Disposition Hearing – March 2016

The jurisdiction and disposition hearings were held March 11, 14, and 15, 2016. Mother submitted a waiver of rights as to jurisdiction, and trial began regarding

disposition. Mother testified that she had been in a relationship with the C. Father for about eight years and that she left because he physically abused her. She denied knowing that the C. Father did anything other than yell at and spank their children during that time. When questioned several times about the C. Father sexually abusing his two stepdaughters and a toddler, Mother answered mostly, "That's what I heard", "I don't know", and, "I'm not sure." She further demurred several times that she was not living with him at the time and stated that "everything was hearsay." Regarding the incident in 2007 when she came home and found the R. Father in Jy.C.'s bed, Mother answered a few factual questions confirming that she had found them together, but mostly stated that she was not sure and could not remember. Mother testified that she sent her four children to live with the C. Father and his family after the R. Father was deported and she lost the family home. She stated that she knew then that the C. Father was violent and had sexually abused his stepdaughters. However, she qualified that answer with, "That's what they had said, but I was not sure. I didn't see." Mother testified that in September of 2009, the police called and told her to pick up her four children from the C. Father's home after the C. Father was accused of abusing his wife and her children. That is when Mother found out that the C. Father had sexually abused Jy.C. and physically abused their other children. Mother testified that in 2010 she falsely told two different police officers that she had walked in on Jy.C. and D.C.'s Father and that it looked like Jy.C. was just about to or had just performed oral sex on D.C.'s Father. Mother stated she made up that statement "out of anger," and that Jy.C. had lied to police as well. Mother

stated she participated in services, but continued to live with D.C.'s Father until the children were returned to her home in 2010, and during that time became pregnant with D.C. Mother stated that when the case was closed in 2011, she knew, "That he was not allowed back in the home." However, she allowed him back into the home because "We were getting along. The kids needed him. I needed him." Mother's relationship with D.C.'s Father had never stopped during the Los Angeles dependency. However, Mother testified that this time she would never allow D.C.'s Father back in the home again, asserting, "I am not going to risk my kids or put them in that position."

Minors' counsel informed the court that A.R., B.R. and M.R. "want the Court to know that they very much want to remain with their Mother in their home. And they very much want [D.C.'s Father] to return to the home with them."

D.C.'s Father testified that he moved back in with Mother and the children a few months after the Los Angeles dependency case was closed, sometime in 2011 or 2012.

The social worker testified that, when Mother placed her older children with the C. Father in 2008, she was aware that the C. Father had sexually abused and impregnated two of his teenage stepdaughters. She further testified about the accusations that both the R. Father and D.C.'s Father had sexually abused Jy.C., but that Mother had continued to live with D.C.'s Father afterward, and that Jy.C. eventually recanted her statements regarding both men. The social worker testified that CFS stood behind its recommendation that the children remain in Mother's home on family maintenance, despite "prior concerns pertaining to [Mother's] protective capacity in the past." This is

because the family was participating in services, has abided by court orders that D.C.'s Father have no contact with the three older children, there are no reports that D.C.'s Father has abused any of the four children that are the subjects of this dependency, and because the children are fond of D.C.'s Father and he has acted as a father to the children. The social worker also testified that, despite the sexual abuse of Jy.C. by all three fathers, Mother can continue to keep the current four children safely in her care, with continuing services. The social worker stressed that, "[t]he children did not report any abuse or neglect by their [M]other or [D.C.'s Father] at this time," despite the prior substantiated and unsubstantiated abuse allegations, and despite D.C.'s statements in the forensic interview that her parents hit and kick each other and hit her with a belt.

Counsel for CFS argued the court should follow the CFS recommendation of family maintenance because the children were being well cared for in the home, there was not a substantial risk of abuse or neglect at this time, and the services provided to the family since this dependency began in November 2015 were sufficient to keep the children safe. Minors' counsel argued that, although the children wished to remain with Mother, they should be removed from the home because of the risk that Mother would not protect them from D.C.'s Father.

The court ordered the children removed from Mother, based on Mother's "past failure to protect and to be honest about it that concerns the court that puts the children at substantial risk." The court also ordered reunification services for both Mother and D.C.'s Father. The court ordered Mother to have unsupervised visits with the children

and authorized CFS to both liberalize visits to overnights and weekends, and return the children to Mother on family maintenance by approval packet. D.C.'s Father was to have supervised visits with each of the children. The court noted that M.R. would turn 18 years old in May, and so scheduled an appearance review for May 6, 2016.

The augmented record contains a minute order dated June 16, 2016, discharging M.R. as a dependent.² The minute order indicates the hearing was held as scheduled and that M.R. voluntarily exited dependency and moved in with Mother on May 31, 2016. The court "retain[ed] jurisdiction to consider request for re-entry."

This appeal followed.

DISCUSSION

Mother argues sufficient evidence does not support the juvenile court's order removing the children because there was not clear and convincing evidence of a risk of serious harm. Although CFS recommended the juvenile court leave the children with Mother on family maintenance, CFS argues on appeal, as does minors' counsel, that the court's decision is supported by substantial evidence.

CFS also argues that the appeal relating to M.R. alone should be dismissed as moot because M.R. turned 18 years old in May 2016, left his placement, and returned to Mother's home, which led to the dismissal of his dependency. Minors' counsel responds that, because M.R. retains the right until age 21 to petition to reinstate dependency

² This court hereby grants CFS' Request for Judicial Notice/Consideration of Additional Evidence regarding the minute order dated June 16, 2016.

jurisdiction under Welfare and Institutions Code section 388, subdivision (e), the appeal is not moot as to him. We agree with minors' counsel and decline to dismiss the appeal as to M.R.

A child may not be removed from a parent or guardian unless there is clear and convincing evidence of "substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's or guardian's physical custody." (Welf. & Inst. Code, § 361, subd. (c)(1).) A juvenile court's removal order is reviewed under the substantial evidence standard of review, notwithstanding the evidentiary standard used at trial. (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193; see *In re E.B.* (2010) 184 Cal.App.4th 568, 578 ["The clear and convincing standard was adopted to guide the trial court; it is not a standard for appellate review. [Citation.] The substantial evidence rule applies no matter what the standard of proof at trial."].)

"In reviewing the sufficiency of the evidence on appeal, we consider the entire record to determine whether substantial evidence supports the juvenile court's findings. Evidence is "[s]ubstantial" if it is reasonable, credible and of solid value. [Citation.] We do not pass on the credibility of witnesses, attempt to resolve conflicts in the evidence or weigh the evidence. Instead, we draw all reasonable inferences in support of the findings, view the record favorably to the juvenile court's order, and affirm the order even if other evidence supports a contrary finding. [Citations.] The appellant has the

burden of showing there is no evidence of a sufficiently substantial nature to support the findings or order. [Citation.]” (*In re T.V.* (2013) 217 Cal.App.4th 126, 133.) Our inquiry is thus limited to the question of whether the evidence would allow a reasonable trier of fact to make the findings required to support the challenged order. (See *In re Jasmon O.* (1994) 8 Cal.4th 398, 423.)

“The parent need not be dangerous and the minor need not have been actually harmed before removal is appropriate. The focus of the statute is on averting harm to the child.” (*In re Diamond H.* (2000) 82 Cal.App.4th 1127, 1136, overruled on other grounds in *Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 748, fn. 6.) “In this regard, the court may consider the parent’s past conduct as well as present circumstances.” (*In re Cole C.* (2009) 174 Cal.App.4th 900, 917; see *In re T.V.*, *supra*, 217 Cal.App.4th at p. 133 [“A parent’s past conduct is a good predictor of future behavior.”].)

Here, the key fact is that Mother has a long and consistent history of failing to protect her children from three different men, not learning from this failure and minimizing the risk to her children. First, in 2007, Mother found the R. Father in Jy.C.’s bed and seemed to blame the child for the incident. This action by Mother caused Jy.C. significant emotional distress. Second, in 2008, Mother placed with the C. Father for one and one-half years the four children she had with him. During that time, the C. Father repeatedly raped Jy.C., made her pregnant and forced her to have an abortion. The C. Father also physically abused their other children while they were in his care. Further, during this time Mother allowed her three children with the R. Father to visit the C.

Father's home, thus exposing them to the potential of abuse. On the witness stand during the disposition hearing, Mother admitted that she knew the C. Father was a violent man and that he had sexually abused his two stepdaughters before she sent their four children to live with him. However, Mother continued to excuse her actions by emphasizing that she had never personally witnessed the abuse and had only heard about it second hand. Even when asked about whether the C. Father had raped Jy.C., Mother did not directly acknowledge the harm done to her daughter, but rather answered several times to the effect of, "[t]hat's what she told me" or "[t]hat's what she said." Finally, in February 2010, both Mother and Jy.C. told responding officers that Mother knew D.C.'s Father was having a sexual relationship with Jy.C. The record indicates that officers were called to the residence because Mother was directing her anger at 15- or 16-year-old Jy.C., rather than at D.C.'s Father, in that she was hitting Jy.C. after walking in on the two together. At the disposition hearing, Mother testified that, although she and Jy.C. told responding officers in February 2010 that D.C.'s Father was having sex with Jy.C. on a regular basis, she stated that both she and Jy.C. had made up those allegations "out of anger." Mother admitted that she knew D.C.'s Father was not allowed back into the home after the children were returned to her in 2010, but she allowed him to move back in later and have contact with her children because, "We were getting along. The kids needed him. I needed him." Mother also confirmed that she had never stopped her relationship with D.C.'s Father. D.C.'s Father returned to their home after he got out of jail for abusing Jy.C. and lived with Mother until just before the children were returned to

her in 2010; they conceived D.C. during that time. This despite assuring the social worker in Los Angeles in 2010 and 2011 that she was not in a relationship with D.C.'s Father and the social worker repeatedly stressing to Mother that the children must have no contact with him. Mother similarly testified that, since the beginning of the current dependency, D.C.'s Father had not returned to their home with his mother since the day DCS told him to leave. She also stated that she had moved out of his mother's home and into her own, and that she would not ever allow him to return. Mother specifically testified that, "I am not going to risk my kids or put them in that position," despite having done just that during and after the previous case in Los Angeles.

The record is replete with evidence that Mother is unwilling or unable to protect her children from D.C.'s Father, based on her repeated failures to protect her children from all three fathers. She has repeatedly minimized both the fact of, and her responsibility for, the harm these fathers caused to the children. Despite Mother's assurances to CFS and to the court that, this time, she will not allow D.C.'s Father access to her home or to the children outside of authorized visits, the court was certainly entitled to disbelieve Mother, especially given that she gave the very same false assurances regarding these children, and this father, during the previous dependency in Los Angeles.

We acknowledge that D.C.'s Father is a father figure to A.R., B.R. and M.R., and that the children told the social worker and minors' counsel that they wished to remain in the family home and to have D.C.'s Father return to the home. We also acknowledge the expressions of the entire family, including Mother, that they want to be together and that

they depend on D.C.'s Father. However, the years of Mother failing to protect Jy.C. from sexual abuse, and the other children from its effects, have had a real impact on A.R., B.R. and M.R. The most recent information in the record shows that each of these three children suffered sexual abuse by an older sibling. Jy.C. touched M.R. inappropriately when he was under age 10, M.R. in turn touched A.R. inappropriately when A.R. was eight years old, and J.J.C. twice sodomized B.R. while they were in foster care together when she was nine years old. Each of the children eventually told Mother about the abuse. This is a glaring example of A.R., B.R. and M.R. being affected by D.C.'s Father's actions, even if indirectly, and by Mother's failure to protect them and their half-siblings from the various fathers. This, combined with the children's regular exposure to the parents' verbal and possibly physical altercations, and Mother's continued inability to shield her children from the risk that D.C.'s Father poses to them, is substantial evidence that the children face a risk of danger to their physical and mental well-being if they remain in the home.

Finally, Mother argues removal was unnecessary because she "agreed to and demonstrated she would follow the rules set by the court." As stated above, Mother had in the Los Angeles dependency agreed to keep D.C.'s Father away from the children and failed to do so. Mother also actively deceived the child welfare agency in Los Angeles when she assured them she was no longer in a relationship with D.C.'s Father. Thus, substantial evidence supports the juvenile court's conclusion that the children's physical health cannot be protected without removing the children from Mother's care.

DISPOSITION

The disposition orders are affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RAMIREZ
P. J.

We concur:

HOLLENHORST
J.

MILLER
J.